

ADMINISTRATIVE PROCEDURES NOTICE FILING

AGENCY NAME Personal Service Contract Review Board		CONTACT PERSON Brittany Martin, MSPB Communications Director	TELEPHONE NUMBER 601-359-2701	
ADDRESS 210 East Capitol Street, Suite 800		CITY Jackson	STATE MS	ZIP 39201
EMAIL MSPB.Communications@mspb.ms.gov	SUBMIT DATE 1/19/2016	Name or number of rule(s): PSCRB Rules and Regulations Title 27, Part 100.		

Short explanation of rule/amendment/repeal and reason(s) for proposing rule/amendment/repeal: Revisions to PSCRB regulations for clarity and modification of clauses to be consistent with House Bill 825 (2015 Regular Session); section numbers and titles that are revised are set forth on attached pages to include subsections revised in those sections as well.

Specific legal authority authorizing the promulgation of rule: Miss. Code Ann. §§ 25-9-120; 25-1-100, 25-61-9, and 25-43-3.103; House Bill 825 (2015 Regular Session).

List all rules repealed, amended, or suspended by the proposed rule: 1-101; 1-102; 1-103; 1-201; 1-301; 2-101; 2-102; 2-103; 2-104; 3-101; 3-102; 3-103; 3-201; 3-202; 3-203; 3-204; 3-205; 3-206; 3-207; 3-208; 3-301; 3-401; 3-402; 3-403; 3-501; 3-502; 3-503; 3-601; 3-602; 3-701; 3-702; 4-101; 5-101; 5-203; 5-204; 5-205; 6-101; 6-204; 6-205; 6-211; 7-102; 7-103; 7-104; 7-105; 7-106; 7-107; 7-108; 7-109; 7-110; 7-111; 7-112; 7-115; Appendices B, C, D, E, F, and G.

ORAL PROCEEDING:

☒ An oral proceeding is scheduled for this rule on Date: February 9, 2016 Time: 9:00 a.m.

Place: Regions Plaza, MSPB Training Room, #271, located at 210 E. Capitol Street in Jackson, Mississippi 39201.

☐ Presently, an oral proceeding is not scheduled on this rule.


If an oral proceeding is not scheduled, an oral proceeding must be held if a written request for an oral proceeding is submitted by a political subdivision, an agency or ten (10) or more persons. The written request should be submitted to the agency contact person at the above address within twenty (20) days after the filing of this notice of proposed rule adoption and should include the name, address, email address, and telephone number of the person(s) making the request; and, if you are an agent or attorney, the name, address, email address, and telephone number of the party or parties you represent. At any time within the twenty-five (25) day public comment period, written submissions including arguments, data, and views on the proposed rule/amendment/repeal may be submitted to the filing agency.

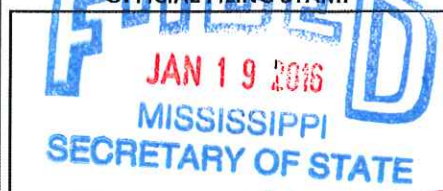

ECONOMIC IMPACT STATEMENT:

☐ Economic impact statement not required for this rule. ☒ Concise summary of economic impact statement attached.

TEMPORARY RULES	PROPOSED ACTION ON RULES	FINAL ACTION ON RULES
<input type="checkbox"/> Original filing <input type="checkbox"/> Renewal of effectiveness To be in effect in _____ days Effective date: <input type="checkbox"/> Immediately upon filing <input type="checkbox"/> Other (specify): _____	Action proposed: <input checked="" type="checkbox"/> New rule(s) <input checked="" type="checkbox"/> Amendment to existing rule(s) <input type="checkbox"/> Repeal of existing rule(s) <input type="checkbox"/> Adoption by reference Proposed final effective date: <input checked="" type="checkbox"/> 30 days after filing <input type="checkbox"/> Other (specify): _____	Date Proposed Rule Filed: Action taken: <input type="checkbox"/> Adopted with no changes in text <input type="checkbox"/> Adopted with changes <input type="checkbox"/> Adopted by reference <input type="checkbox"/> Withdrawn <input type="checkbox"/> Repeal adopted as proposed Effective date: <input type="checkbox"/> 30 days after filing <input type="checkbox"/> Other (specify): _____

Printed name and Title of person authorized to file rules: Sara DeLoach, Special Assistant Attorney General

Signature of person authorized to file rules: 

OFFICIAL FILING STAMP 	DO NOT WRITE BELOW THIS LINE OFFICIAL FILING STAMP 	OFFICIAL FILING STAMP 
Accepted for filing by _____	Accepted for filing by <u>#21727</u>	Accepted for filing by _____

The entire text of the Proposed Rule including the text of any rule being amended or changed is attached.

Personal Service Contract Review Board Rules and Regulations

Revisions to the following sections and subparts of those sections:

- 1-101 GENERAL PROVISIONS
- 1-102 SUPPLEMENTARY GENERAL PRINCIPLES OF LAW APPLICABLE
- 1-103 REQUIREMENT OF GOOD FAITH
- 1-201 DEFINITIONS
- 1-301 PUBLIC ACCESS TO PROCUREMENT INFORMATION
- 2-101 CREATION AND MEMBERSHIP OF THE MISSISSIPPI PERSONAL SERVICE CONTRACT REVIEW BOARD
- 2-102 POLICY AND PROCEDURE FOR MEETINGS
- 2-103 AUTHORITY AND DUTIES OF THE PERSONAL SERVICE CONTRACT REVIEW BOARD
- 2-104 CONTINUOUS INTERNAL AUDIT REQUIRED
- 3-101 CONTRACTING PROCEDURES
- 3-102 GENERAL PROVISIONS
- 3-103 UNSOLICITED OFFERS
- 3-201 METHOD OF SOURCE SELECTION
- 3-202 COMPETITIVE SEALED BIDDING
- 3-203 COMPETITIVE SEALED PROPOSALS
- 3-204 COMPETITIVE SEALED QUALIFICATIONS
- 3-204 SMALL PURCHASES
- 3-205 SOLE-SOURCE PROCUREMENT
- 3-206 EMERGENCY PROCUREMENT
- 3-207 PREAPPROVED VENDOR LISTS
- 3-301 CANCELLATION OF INVITATIONS FOR BIDS OR REQUESTS FOR PROPOSALS
- 3-401 RESPONSIBILITY OF BIDDERS AND OFFERORS
- 3-402 PREQUALIFICATION OF SUPPLIERS
- 3-403 COST OR PRICING DATA
- 3-501 TYPES OF CONTRACTS
- 3-502 MULTI-TERM CONTRACTS
- 3-503 MULTIPLE SOURCE CONTRACTING
- 3-601 RIGHT TO INSPECT FACILITY
- 3-602 RIGHT TO AUDIT RECORDS

3-701 FINALITY OF DETERMINATIONS
3-702 REPORTING OF ANTI-COMPETITIVE PRACTICES
4-101 MODIFICATION AND TERMINATION OF CONTRACTS FOR SERVICES
5-101 AUTHORITY TO DEBAR OR SUSPEND
5-203 APPLICABILITY OF THIS SECTION
5-204 REMEDIES PRIOR TO AN AWARD
5-205 REMEDIES AFTER AN AWARD
6-101 DEFINITIONS OF TERMS USED IN THIS CHAPTER
6-204 GRATUITIES
6-205 PROHIBITION AGAINST CONTINGENT FEES
6-211 BOARD MEMBER ETHICS
7-102 PROCEDURES FOR PROCUREMENT
7-103 COMPETITIVE PROCUREMENT EXCEPTION
7-103 SUBMISSION DEADLINES
7-104 CONTRACT SUBMISSION DEADLINES
7-106 CONTRACT APPROVAL AND REJECTION
7-107 DEADLINE EXCEPTION REQUESTS
7-108 RENEWALS
7-109 MODIFICATIONS
7-112 POST-AWARD VENDOR DEBRIEFING
7-115 EXECUTED CONTRACTS
APPENDIX B – Sample RFP
APPENDIX C – Independent Contractor/Contract Worker Determination
APPENDIX D – Required Clauses in Contracts for Services
APPENDIX E – Required Clauses in RFPs and IFBs
APPENDIX F – Clauses Available for Use in Service Contracts
APPENDIX G – Clauses Available for Use in Solicitations for Bids or Proposals



DELBERT HOSEMAN
Secretary of State

CONCISE SUMMARY OF ECONOMIC IMPACT STATEMENT

An Economic Impact Statement is required for this proposed rule by Section 25-43-3.105 of the Administrative Procedures Act. This is a Concise Summary of the Economic Impact Statement which must be filed with the Secretary of State's Office.

AGENCY NAME PERSONAL SERVICE CONTRACT REVIEW BOARD	CONTACT PERSON Brittany Martin		TELEPHONE NUMBER 601-359-1406
ADDRESS 210 EAST CAPITOL STREET, SUITE 800	CITY JACKSON	STATE MISSISSIPPI	ZIP 39201
EMAIL mspb.communications@mspb.ms.gov	DESCRIPTIVE TITLE OF PROPOSED RULE PERSONAL SERVICE CONTRACT REVIEW BOARD RULES AND REGULATIONS; Title 27, Part 100		
Specific Legal Authority Authorizing the promulgation of Rule: Miss. Code Ann. §§ 25-9-120, 25-1-100, 25-61-9, and 25-43-3.103; House Bill 825 (2015 Regular Session)	Reference to Rules repealed, amended or suspended by the Proposed Rule: 1-101; 1-102; 1-103; 1-201; 1-301; 2-101; 2-102; 2-103; 2-104; 3-101; 3-102; 3-103; 3-201; 3-202; 3-203; 3-204; 3-205; 3-206; 3-207; 3-208; 3-301; 3-401; 3-402; 3-403; 3-501; 3-502; 3-503; 3-601; 3-602; 3-701; 3-702; 4-101; 5-101; 5-203; 5-204; 5-205; 6-101; 6-204; 6-205; 6-211; 7-102; 7-103; 7-104; 7-105; 7-106; 7-107; 7-108; 7-109; 7-110; 7-111; 7-112; 7-115; and Appendices B, C, D, E, F, and G.		

Estimated Costs and Benefits

1. Briefly summarize the benefits that may result from this regulation and who will benefit:

The adoption of the proposed PSCRB Rules and Regulations is expected to increase competition in procuring personal and professional services contracts, tighten controls, and bring more transparency to the procurement process. Competitive bidding promotes public confidence in the contracting process and ensures that the best interests of the State are served. As stated in a recent PEER Committee report, "best practices for public contracting promote fair and open competition." It is anticipated that competitive bidding practices will result in cost savings. For example, in 2015, a contract which was not initially competitively bid by the Mississippi Department of Corrections was originally awarded at \$20,000,000.00. After it was required to be competitively bid, a contract was awarded to the same bidder at \$19,156,755.72, saving the state \$843,244.28. Additionally, the statewide goal of increasing government transparency to better assure the public that state funds are being properly utilized and administered is supported by the increase in the number of contracts which require publication and competitive bidding.

2. Briefly describe the need for the proposed rule:

The PSCRB Rules and Regulations must be revised to comply with mandates in House Bill 825, which was passed during the 2015 Regular Legislative Session and approved by the Governor on March 31, 2015. This bill is codified in Sections 25-9-120, 25-1-100, and 25-61-9 of the Mississippi Code Annotated.

3. Briefly describe the effect the proposed action will have on the public health, safety, and welfare:

The adoption of the proposed PSCRB Rules and Regulations will not directly impact the public health, safety, and welfare; however, it is anticipated that increased competition for services related to these areas

will yield lower pricing and savings to taxpayers. The cost savings generated through such competition should allow agencies to maximize the funds available for services.

4. Estimated Cost of implementing proposed action:

a. To the agency:

☐ Nothing ☒ Minimal ☐ Moderate ☐ Substantial ☐ Excessive

b. To other state or local government entities:

☐ Nothing ☒ Minimal ☐ Moderate ☐ Substantial ☐ Excessive

5. Estimated Cost and/or economic benefit to all persons directly affected by the proposed rule:

a. Cost:

☐ Nothing ☒ Minimal ☐ Moderate ☐ Substantial ☐ Excessive

b. Economic Benefit:

☐ Nothing ☐ Minimal ☐ Moderate ☒ Substantial ☐ Excessive

6. Estimated impact on small businesses:

☐ Nothing ☐ Minimal ☒ Moderate ☐ Substantial ☐ Excessive

a. Estimate of the number of small businesses subject to the proposed regulation:

All small businesses who wish to contract with the State of Mississippi to provide personal and professional services to agencies under the purview of PSCRB will be subject to the PSCRB Rules and Regulations regarding the submission of competitive bids, including responses to Invitations for Bids, Requests for Proposals, and Requests for Qualifications.

b. Projected costs for small businesses to comply:

Small businesses will engage in this process voluntarily and will likely incorporate any additional costs into the price of the service provided. Potential costs to the providers could include items such as responding to Invitations for Bids, Requests for Proposals, and Requests for Qualifications, and costs in administering the services.

c. Statement of probable effect on impacted small businesses:

The proposed revisions will allow small businesses to more actively engage in State government through the increase in competitively bid contracts for personal and professional services involving the expenditure of funds in excess of \$75,000. Small businesses may experience an increase in revenue from the opportunity to compete for personal and professional services contracts with the State of Mississippi.

7. The cost of adopting the rule compared to not adopting the rule or significantly amending the existing rule (check option):

☐ substantially less than ☐ moderately less than ☐ minimally less than

☒ the same as ☐ minimally more than ☐ moderately more than

☐ substantially more than ☐ excessively more than

8. The benefit of adopting the rule compared to not adopting the rule or significantly amending the existing rule (check option):

☐ substantially less than ☐ moderately less than ☐ minimally less than

☐ the same as ☐ minimally more than ☐ moderately more than

☒ substantially more than ☐ excessively more than

Reasonable Alternative Methods

1. Other than adopting this rule, are there less costly or less intrusive methods for achieving the purpose of the proposed rule?

☐ Yes

☒ No

2. If yes, please briefly describe available, reasonable alternative(s) and the reasons for rejecting those alternatives in favor of the proposed rule. (Please see § 25-43-4.104 for factors you must consider.)

Alternative methods are precluded by law and therefore were not considered.

Data and Methodology

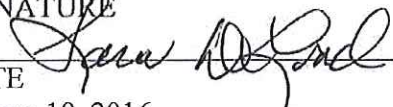
1. Please briefly describe the data and methodology you used in making the estimates required by this form.

The effects of the amendments to Section 25-9-120 of the Mississippi Code made by House Bill 825 (2015 Regular Session) are unknown and the estimates made herein are anticipatory as the values and number of personal and professional services contracts to be entered into by agencies under the purview of the PSCRB are not yet definitely quantified.

Public Notice

1. Where, when, and how may someone present their views on the proposed rule and request an oral proceeding on the proposed rule if one is not already scheduled?

An oral proceeding will be held on Tuesday, February 9, 2016, at 8:30 a.m. in the MSPB office, Room 271, located at 210 East Capitol Street in Jackson, Mississippi. The purpose of the oral proceeding is to allow participants to make statements and to submit written comments concerning the proposed PSCRB Rules and Regulations. Rules governing the oral proceeding are found in Section 8-101 of the PSCRB Rules and Regulations. Persons wishing to make oral presentations at this proceeding must notify the Chairman of the PSCRB at least three business days prior to the proceeding and indicate the general subject of their presentations. The proceeding is open to the public.

SIGNATURE	TITLE
 Sara DeLoach	Special Assistant Attorney General
DATE	PROPOSED EFFECTIVE DATE OF RULE
January 19, 2016	March 18, 2016